

§ 434.34 Quality assurance system.

The contract must provide for an internal quality assurance system that:

- (a) Is consistent with the utilization control requirement of part 456 of this chapter;
- (b) Provides for review by appropriate health professionals of the process followed in providing health services;
- (c) Provides for systematic data collection of performance and patient results;
- (d) Provides for interpretation of this data to the practitioners; and
- (e) Provides for making needed changes.

[48 FR 54013, Nov. 30, 1983; 49 FR 9173, Mar. 12, 1984]

§ 434.36 Marketing.

The contract must specify the methods by which the HMO or PHP will assure the agency that marketing plans, procedures, and materials are accurate, and do not mislead, confuse, or defraud either recipients or the agency.

[53 FR 12016, Apr. 12, 1988]

§ 434.38 Inspection and audit of HMO's financial records.

A risk comprehensive contract with an HMO must provide that the agency and the Department may inspect and audit any financial records of the HMO or its subcontractors relating to the HMO's capacity to bear the risk of potential financial losses.

Subpart D—Contracts With Health Insuring Organizations

SOURCE: 55 FR 51295, Dec. 13, 1990, unless otherwise noted.

§ 434.40 Contract requirements.

(a) Contracts with health insuring organizations that are not subject to the requirements in section 1903(m)(2)(A) must:

- (1) Meet the general requirements for all contracts and subcontracts specified in § 434.6;
- (2) Specify that the contractor assumes at least part of the underwriting risk and;
 - (i) If the contractor assumes the full underwriting risk, specify that pay-

ment of the capitation fees to the contractor during the contract period constitutes full payment by the agency for the cost of medical services provided under the contract;

- (ii) If the contractor assumes less than the full underwriting risk, specify how the risk is apportioned between the agency and the contractor;

- (3) Specify whether the contractor returns to the agency part of any savings remaining after the allowable costs are deducted from the capitations fees, and if savings are returned, the apportionment between agency and the contractor; and

- (4) Specify the extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk.

(b) The contract must—

- (1) Specify that the capitation fee will not exceed the limits set forth under part 447 of this chapter.

- (2) Specify that, except as permitted under paragraph (b) of this section, the capitation fee paid on behalf of each recipient may not be renegotiated—

- (i) During the contract period if the contract period is 1 year or less; or

- (ii) More often than annually if the contract period is for more than 1 year.

- (3) Specify that the capitation fee will not include any amount for recoupment of any specific losses suffered by the contractor for risks assumed under the same contract or a prior contract with the agency; and

- (4) Specify the actuarial basis for computation of the capitation fee.

- (c) The capitation fee may be renegotiated more frequently than annually for recipients who are not enrolled at the time of renegotiation or if the renegotiation is required by changes in Federal or State law.

§ 434.42 Application of sanctions to risk comprehensive contracts.

A risk comprehensive contract must provide that payments provided for under the contract will be denied for new enrollees when, and for so long as, payment for those enrollees is denied by HCFA under § 434.67(e).

[59 FR 36084, July 15, 1994]